UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET, SUITE 300
DENVER, COLORADO 80202-2466

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq; the "Act"),

the MHA Nation Clean Fuels Refinery

is authorized to discharge from its wastewater treatment facilities located in the NW 1/4 of Section 19, Township 152N, Range 87W, Fort Berthold Indian Reservation, Ward County, North Dakota

to wetlands tributary to the East Fork of Shell Creek,

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein. Authorization for discharge is limited to those outfalls specifically listed in the permit.

This permit shall become effective **to be determined upon issuance**

This permit and the authorization to discharge shall expire at midnight, **to be determined upon issuance**

Signed this day of

_____
Authorized Permitting Official

Stephen S. Tuber, Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance
Title

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1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1.1. Definitions.

The *30-day (and monthly) average*, other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.

The *7-day (and weekly) average*, other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.

Daily Maximum (*Daily Max.*) is the maximum measured value for a pollutant discharged during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with daily maximum limitations expressed in units of mass (e.g., kilograms, pounds), the daily maximum is calculated as the total mass of pollutant discharged over the calendar day or representative 24-hour period. For pollutants with limitations expressed in other units of measurement (e.g milligrams/liter, parts per billion), the daily maximum is calculated as the average of all measurements of the pollutant over the calendar day or representative 24-hour period. If only one measurement or sample is taken during a calendar day or representative 24-hour period, the single measured value for a pollutant will be considered the daily maximum measurement for that calendar day or representative 24-hour period.

Daily Minimum (*Daily Min.*) is the minimum value allowable in any single sample or instantaneous measurement collected during the course of a day.

Mean (7-day mean, 30-day mean) is the arithmetic mean value of all results for samples collected during either a seven day period or calendar week whichever is applicable, or a thirty day period or a calendar month whichever is applicable.

Grab sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

Instantaneous measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

Composite samples shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours, nor more than twenty-four (24) hours. Acceptable methods for the preparation of composite samples are as follows:

a. Constant time interval between samples, sample volume proportional to flow rate at the time of sampling;

b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time of the first sample was collected may be used;

c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,

d. Continuous collection of sample with sample collection rate proportional to flow rate.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Director means the Regional Administrator of EPA Region 8 or an authorized representative.

EPA means the United States Environmental Protection Agency.

Storm Water or *Stormwater* means storm water runoff, snow melt runoff, and surface runoff and drainage.

CWA means the Clean Water Act (formerly referred to as either the Federal Water Pollution Act or the Federal Water Pollution Control Act Amendments of 1972), Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4. In this permit the CWA may be referred to as "the Act".

Sewage Sludge is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Whole Effluent Toxicity, Acute toxicity occurs when 50 percent or more mortality is observed for either species (see Part 1.3.) at any effluent concentration. Mortality in the control must simultaneously be 10 percent or less for the effluent results to be considered valid. Chronic toxicity occurs when during a chronic toxicity test, the 25% inhibition concentration (IC_{25}) calculated on the basis of test organism survival and growth or survival and reproduction, is less than or equal to 100% effluent concentration.

Section 313 Water Priority Chemicals means a chemical or chemical categories which: 1) are listed at 40 CFR 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986); 2) are present at or above threshold levels at a facility subject of EPCRA Section 313 reporting requirements; and 3) that meet at least one of the following criteria: (i) are listed in Appendix D of 40 CFR 122 on either Table II (organic toxic pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances); (ii)are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

1.2. Description of Discharge Point(s). The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under an NPDES permit is a violation of the Clean Water Act and could subject the person(s) responsible for such discharge to penalties under Section 309 of the Act.

Outfall Serial Number(s)	Description of Discharge Point(s)
001	Any discharge of uncontaminated stormwater from the Evaporation Ponds to the wetland swale located in the NW1/4 Section 19, Township 152 North, Range 87 West. Longitude 47°58'25" Latitude 101°52'11"
002	Any discharge from the Final Effluent Holding Ponds or the Final Release Tanks to the wetland swale located in the NW1/4 Section 19, Township 152 North, Range 87 West. Longitude 47°58'29" Latitude 101°52'9"
002a	Any discharge from the Stormwater Final Release Tanks to the wetland swale located in the NW1/4 Section 19, Township 152 North, Range 87 West. Longitude 47°58'29" Latitude 101°52'9"
003	Any discharge from the Sanitary Wastewater Treatment Plant to the wetland swale located in the NW1/4 Section 19, Township 152 North, Range 87 West. Longitude 47°58'??" Latitude 101°52'??"

1.3. Specific Limitations and Self-Monitoring Requirements

1.3.1. Effluent Limitations - Outfall 001. Effective immediately and lasting through the life of this permit, the quality of effluent discharged from the Stormwater Evaporation Ponds by the facility shall, as a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Flow, mgd	NA	NA	0.08
Oil and Grease, mg/L	NA	NA	15
Biochemical Oxygen Demand (5-day), mg/L	30	45	N/A
Total Suspended Solids, mg/L	30	45	N/A
Phenol, ug/L	300	N/A	N/A
Iron (tr), ug/L	300	N/A	N/A
Manganese (tr), ug/L	50	N/A	N/A
Selenium (tr), ug/L	5	N/A	20
Sulfate, mg/L	750	N/A	N/A
Nitrate as N, mg/L	10	N/A	N/A
Dissolved Oxygen, mg/L:	April 1 – Sept 30 8.0 (1-day min.) 9.5 (7-day mean) 6.5 (30-day mean) Oct 1 – March 31 4.0 (1-day min.) 5.0 (7-day mean) 6.5 (30-day mean)		
The pH of the discharge shall not be less than 7.0 s.u.or greater than 9.0 s.u.at any time.			

a/ See Definitions, Part 1.1., for definition of terms.

tr – total recoverable

The discharge from Outfall 001 shall be free from oil and grease attributable to wastewater, which causes a visible film or sheen upon the waters or any discoloration of the surface of adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines or prevents classified uses of such waters.

1.3.2 Self-Monitoring Requirements - Outfall 001. As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, mgd b/	Daily	Continuous, Recorder
Biochemical Oxygen Demand (5-day), mg/L	Monthly	Composite
Total Suspended Solids, mg/L	Monthly	Composite
Phenol, ug/L	Quarterly	Composite
Ammonia as N, mg/L	Quarterly	Composite
Selenium (tr), ug/L	Quarterly	Composite
Manganese (tr), ug/L	Quarterly	Composite
Iron (tr), ug/L	Quarterly	Composite
Fluoride, mg/L	Quarterly	Composite
Sulfate, mg/L	Quarterly	Composite
Nitrate as N, mg/L	Quarterly	Composite
Total Phosphorous as P, mg/L	Quarterly	Composite
pH (s.u.)	Daily	Grab or Continuous
Oil and grease, visual c/	Daily	Visual c/
Dissolved Oxygen, mg/L	Daily	Grab

a/ See Definitions, Part 1.1., for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ A daily visual observation is required. If a visible sheen is detected, a grab sample shall be taken and analyzed immediately. The concentration of oil and grease shall not exceed 15 mg/L in any sample.

tr – total recoverable

1.3.3. Effluent Limitations - Outfall 002. Effective immediately and lasting through the life of this permit, the quality of effluent discharged from the Final Effluent Holding Ponds or Effluent Final Release Tanks by the facility shall, as a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Flow, mgd	0.025	N/A	0.05
Biochemical Oxygen Demand (5-day), lbs./day	43	N/A	81
Chemical Oxygen Demand, lbs./day	255	N/A	500
Total Suspended Solids, lbs./day	35	N/A	55
Oil and Grease, lbs./day	13.7	N/A	25.4
Benzene, ug/L	2.2	N/A	NA
Ethyl benzene, ug/L	530	N/A	NA
Toluene, ug/L	1300	N/A	NA
Phenol, ug/L	300	N/A	NA
Phenolic Compounds, lbs./day	0.29	N/A	0.59
Hydrogen Sulfide, ug/L	2.0	N/A	NA
Ammonia as N, mg/L	1.1	N/A	3.2
Barium (tr), ug/L	1000	N/A	NA
Aluminum (tr), ug/L	87	N/A	750
Chromium (Total), lbs./day	0.035	N/A	1.22
Chromium (VI) , ug/L	11	N/A	16
Chromium (VI), lbs/day	0.0018	N/A	0.0067
Iron (tr), ug/L	300	N/A	N/A
Manganese (tr), ug/L	50	N/A	N/A
Mercury (Total), ug/L	0.0012	N/A	1.4
Nickel (tr), ug/L	132	N/A	1190
Selenium (tr), ug/L	5	N/A	20
Chloride, mg/L	230	N/A	860
Fluoride, mg/L	4.0	N/A	N/A
Sulfate, mg/L	750	N/A	N/A
Nitrite as N, mg/L	1.0	N/A	N/A
Nitrate as N, mg/L	10	N/A	N/A
Whole Effluent Toxicity, acute	$LC_{50} > 100\%$		
Whole Effluent Toxicity, chronic	$IC_{25} > 100\%$		
The pH of the discharge shall not be less than 7.0 s.u. or greater than 9.0 s.u. at any time.			

Effluent Characteristic	Effluent Limitation
Dissolved Oxygen, mg/L:	April 1 – Sept 30 8.0 (1-day min.) 9.5 (7-day mean) 6.5 (30-day mean) Oct 1 – March 31 4.0 (1-day min.) 5.0 (7-day mean) 6.5 (30-day mean)

a/ See Definitions, Part 1.1., for definition of terms.

tr – total recoverable

The discharge from Outfall 002 shall be free from oil and grease attributable to wastewater, which causes a visible film or sheen upon the waters or any discoloration of the surface of adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines or prevents classified uses of such waters.

1.3.4 Self-Monitoring Requirements - Outfall 002. As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, mgd b/	Daily	Continuous, Recorder
Biochemical Oxygen Demand (5-day), lbs./day	2X/Week	Composite
Chemical Oxygen Demand, lbs./day	Monthly	Composite
Total Suspended Solids, lbs./day	2X/Week	Composite
Oil and Grease, lbs/day	Weekly	Grab
Benzene, ug/L	Monthly	Grab
Ethyl benzene, ug/L	Monthly	Grab
Toluene, ug/L	Monthly	Grab
Phenol, ug/L	Monthly	Grab
Phenolic Compounds, lbs./day	Monthly	Grab
Hydrogen Sulfide, ug/L	Weekly	Grab
Ammonia as N, mg/L	Weekly	Composite
Barium (tr), ug/L	Monthly	Composite
Aluminum (tr), ug/L	Monthly	Composite

Effluent Characteristic	Frequency	Sample Type a/
Chromium (Total), lbs./day	Monthly	Composite
Chromium (VI), ug/L	Monthly	Grab
Chromium (VI), lbs./day	Monthly	Grab
Iron (tr), ug/L	Monthly	Composite
Manganese (tr), ug/L	Monthly	Composite
Mercury (Total), ug/L	Monthly	Composite
Nickel (tr), ug/L	Monthly	Composite
Selenium (tr), ug/L	Monthly	Composite
Chloride, mg/L	Monthly	Composite
Fluoride, mg/L	Monthly	Composite
Sulfate, mg/L	Monthly	Composite
Nitrite as N, mg/L	Monthly	Composite
Nitrate as N, mg/L	Monthly	Composite
Total Phosphorous as P, mg/L	Monthly	Composite
Whole Effluent Toxicity, acute	Quarterly	Grab
Whole Effluent Toxicity, chronic	Quarterly	Composite
pH (s.u.)	Daily	Grab or Continuous
Temperature, ^{o}C	Daily	Grab
Oil and grease, visual c/	Daily	Grab
Dissolved Oxygen, mg/L	Daily	Grab

a/ See Definitions, Part 1.1., for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ A daily visual observation is required. If a visible sheen is detected, a grab sample shall be taken and analyzed immediately. The concentration of oil and grease shall not exceed 15 mg/L in any sample.

tr - total recoverable

1.3.5 Additional Self-Monitoring Requirements - Outfall 002.

Additional Monitoring Requirement for Outfall 002:

Approximately 90 days and 270 days after startup of the facility, monitoring shall be required for:

Total Metals – Table III §40CFR 122 Appendix D
Volatile, acid, and base/neutral compounds – Table II §40CFR 122 Appendix D

1.3.6 Effluent Limitations - Outfall 002a. Effective immediately and lasting through the life of this permit, the quality of effluent discharged from the Stormwater Final Release Tanks by the facility shall, as a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Flow, mgd	0.0065	N/A	0.027
Oil and Grease, mg/L	15	N/A	15
Total Organic Carbon, mg/L	110	N/A	110
Benzene, ug/L	2.2	N/A	NA
Ethyl benzene, ug/L	530	N/A	NA
Toluene, ug/L	1300	N/A	NA
Phenol, ug/L	300	N/A	NA
Hydrogen Sulfide, ug/L	2.0	N/A	NA
Ammonia as N, mg/L	1.1	N/A	3.2
Barium (tr), ug/L	1000	N/A	NA
Aluminum (tr), ug/L	87	N/A	750
Chromium (VI), ug/L	11	N/A	16
Iron (tr), ug/L	300	N/A	N/A
Manganese (tr), ug/L	50	N/A	N/A
Mercury (Total), ug/L	0.0012	N/A	1.4
Nickel (tr), ug/L	132	N/A	1190
Selenium (tr), ug/L	5	N/A	20
Chloride, mg/L	230	N/A	860
Fluoride, mg/L	4.0	N/A	N/A
Sulfate, mg/L	750	N/A	N/A
Nitrite as N, mg/L	1.0	N/A	N/A
Nitrate as N, mg/L	10	N/A	N/A
Whole Effluent Toxicity, acute	LC_{50} > 100%		
Whole Effluent Toxicity, chronic	IC_{25} > 100%		
The pH of the discharge shall not be less than 7.0 s.u. or greater than 9.0 s.u. at any time.			
Dissolved Oxygen, mg/L:	April 1 – Sept 30 8.0 (1-day min.) 9.5 (7-day mean) 6.5 (30-day mean) Oct 1 – March 31 4.0 (1-day min.) 5.0 (7-day mean) 6.5 (30-day mean)		

a/ See Definitions, Part 1.1., for definition of terms.

tr – total recoverable

The discharge from Outfall 002a shall be free from oil and grease attributable to wastewater, which causes a visible film or sheen upon the waters or any discoloration of the surface of adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines or prevents classified uses of such waters.

1.3.7 Self-Monitoring Requirements - Outfall 002a. As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, mgd b/	Daily	Continuous, Recorder
Biochemical Oxygen Demand (5-day), mg/L	2X/Week	Composite
Total Organic Carbon, mg/L	Monthly	Composite
Total Suspended Solids, mg/L	2X/Week	Composite
Benzene, ug/L	Monthly	Grab
Ethyl benzene, ug/L	Monthly	Grab
Toluene, ug/L	Monthly	Grab
Phenol, ug/L	Monthly	Grab
Hydrogen Sulfide, ug/L	Weekly	Grab
Ammonia as N, mg/L	Weekly	Composite
Barium (tr), ug/L	Monthly	Composite
Aluminum (tr), ug/L	Monthly	Composite
Chromium (VI), ug/L	Monthly	Grab
Iron (tr), ug/L	Monthly	Composite
Manganese (tr), ug/L	Monthly	Composite
Mercury (Total), ug/L	Monthly	Composite
Nickel (tr), ug/L	Monthly	Composite
Selenium (tr), ug/L	Monthly	Composite
Chloride, mg/L	Monthly	Composite
Fluoride, mg/L	Monthly	Composite

Effluent Characteristic	Frequency	Sample Type a/
Sulfate, mg/L	Monthly	Composite
Nitrite as N, mg/L	Monthly	Composite
Nitrate as N, mg/L	Monthly	Composite
Total Phosphorous as P, mg/L	Monthly	Composite
Whole Effluent Toxicity, acute	Quarterly	Grab
Whole Effluent Toxicity, chronic	Quarterly	Composite
pH (s.u.)	Daily	Grab or Continuous
Temperature, ^{o}C	Daily	Grab
Oil and Grease, visual c/	Daily	Grab
Oil and Grease, mg/L	Weekly	Grab
Dissolved Oxygen, mg/L	Daily	Grab

a/ See Definitions, Part 1.1., for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ A daily visual observation is required. If a visible sheen is detected, a grab sample shall be taken and analyzed immediately. The concentration of oil and grease shall not exceed 15 mg/L in any sample.

tr - Total recoverable

1.3.8 Effluent Limitations - Outfall 003. Effective immediately and lasting through the life of this permit, the quality of effluent discharged from the Sanitary Wastewater Treatment Plant by the facility shall, as a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation		
	30-Day Average a/	7-Day Average a/	Daily Maximum a/
Flow, MGD	NA	NA	0.08
Biochemical Oxygen Demand (5-day), mg/L	30	45	N/A
Total Suspended Solids, mg/L	30	45	N/A
Ammonia as N, mg/L	1.1	N/A	3.2
Total Residual Chlorine, ug/L	11	N/A	19
Iron (tr), ug/L	300	N/A	N/A
Manganese (tr), ug/L	50	N/A	N/A
Selenium (tr), ug/L	5	N/A	20
Sulfate, mg/L	750	N/A	N/A
Nitrite as N, mg/L	1.0	N/A	N/A
Nitrate as N, mg/L	10	N/A	N/A
Dissolved Oxygen, mg/L:	April 1 – Sept 30 8.0 (1-day min.) 9.5 (7-day mean) 6.5 (30-day mean) Oct 1 – March 31 4.0 (1-day min.) 5.0 (7-day mean) 6.5 (30-day mean)		
The pH of the discharge shall not be less than 7.0 s.u.or greater than 9.0 s.u.at any time.			

a/ See Definitions, Part 1.1., for definition of terms.

tr – total recoverable

The discharge from Outfall 003 shall be free from floating debris, oil, scum, and other floating materials attributable to municipal, industrial, or other discharges or agricultural practices in sufficient amounts to be unsightly or deleterious.

Percentage Removal Requirements (TSS and BOD_5 Limitation): In addition to the concentration limits for total suspended solids and BOD_5 indicated above, the arithmetic mean of the concentration for effluent samples collected in a 30-day consecutive period shall not exceed 15 percent of the arithmetic mean of the concentration for influent samples collected at approximately the same times during the same period (85 percent removal).

1.3.9 Self-Monitoring Requirements - Outfall 003. As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, mgd b/	Daily	Continuous, Recorder
Biochemical Oxygen Demand (5-day), mg/L c/	Monthly	Composite
Total Suspended Solids, mg/L c/	Monthly	Composite
Ammonia as N, mg/L	Quarterly	Composite
Total Residual Chlorine, ug/L	Daily	Grab
Selenium (tr), ug/L	Quarterly	Composite
Manganese (tr), ug/L	Quarterly	Composite
Iron (tr), ug/L	Quarterly	Composite
Sulfate, mg/L	Quarterly	Composite
Nitrite as N, mg/L	Quarterly	Composite
Nitrate as N, mg/L	Quarterly	Composite
Total Phosphorous as P, mg/L	Quarterly	Composite
pH (s.u.)	Daily	Grab or Continuous
Dissolved Oxygen, mg/L	Daily	Grab

a/ See Definitions, Part 1.1., for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in million gallons per day) during the reporting period and the maximum flow rate observed (in mgd) shall be reported.

c/ In addition to monitoring the final discharge, influent samples shall be taken and analyzed for this constituent at the same frequency as required for this constituent in the discharge.

tr – total recoverable

1.3.10 Whole Effluent Toxicity Testing - Chronic Toxicity

Starting in the first full quarter after the effective date of this permit, the permittee shall, at least once each quarter, conduct chronic short term toxicity tests on the final effluent from Outfalls 002 and 002a. There shall not be chronic toxicity in 100 percent concentration of the final effluent.

The monitoring frequency shall be quarterly. Quarterly samples shall be collected on a two day progression; i.e., if the first quarterly sample is on a Monday, during the next quarter, the sampling shall begin on a Wednesday. If chronic toxicity is detected, an additional test shall be conducted within two weeks of the date of when the permittee learned of the test failure. The need for any additional samples shall be determined by the permit issuing authority.

The chronic toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of "Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA 821-R-02-013, Rev. Oct. 2002. Test species shall consist of *Ceriodaphnia dubia* and *Pimephales promelas*. A multi dilution test consisting of five concentrations and a control is required. If test acceptability criteria is not met for control survival, growth, or reproduction, the test shall be considered invalid. Chronic toxicity occurs when, during a chronic toxicity test, the 25% inhibition concentration (IC_{25}) calculated on the basis of test organism survival and growth or survival and reproduction, is less than or equal to 100% effluent concentration. The tests shall be done using effluent concentrations of 100%, 50%, 25%, 12.5%, 6.25%, and 0% (control).

Test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the calendar period during which the whole effluent test was run (e.g. results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, with the remaining reports submitted with DMRs due each July 28, October 28, and January 28). Monthly test results shall be reported along with the DMR submitted for that month. The format for the report shall be consistent with the latest revision of the "Region VIII Guidance for Chronic Whole Effluent Reporting" (Appendix C of Region VIII NPDES Whole Effluent Toxics Control Program, August 1997), and shall include all the physical and chemical testing as specified.

If the results for one year (four consecutive quarters) of whole effluent testing indicate no chronic toxicity, the permittee may request the permit issuing authority to allow the permittee to reduce testing frequency, and/or reduce testing to one species on an alternating basis, and/or modify testing to the acute test program. The permit issuing authority may approve, partially approve, or deny the request based on results and other available information. If approval is given, the modification will take place without a public notice.

1.3.11 Whole Effluent Toxicity Testing - Acute Toxicity

Starting in the first full quarter after the effective date of this permit, the permittee shall conduct quarterly acute static replacement toxicity tests on an effluent sample of the discharge from Outfalls 002 and 002a. The effluent shall be obtained from the sample required for the chronic toxicity tests as noted in Part 1.3.10. of this permit.

The replacement static toxicity tests shall be conducted in accordance with the procedures set out in the latest revision of “Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms”, EPA 821-R-02-012 (Rev Oct. 2002). The permittee shall conduct an acute 48-hour static toxicity test using *Ceriodaphnia dubia* an acute 96-hour static toxicity test using *Pimephales promelas*. The tests shall be done using effluent concentrations of 100%, 75%, 50%, 25%, 12.5%, 6.25% and 0% (control).

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration. If more than 10% control mortality occurs, the test shall be repeated until satisfactory control survival is achieved. If acute toxicity occurs, an additional test shall be conducted within two weeks of the date of when the permittee learned of the test failure. If only one species fails, retesting may be limited to this species. Should toxicity occur in the second test, testing shall occur once a month until further notified by the permit issuing authority.

Quarterly test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar quarter (e.g., whole effluent results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, with the remaining reports submitted with DMRs due each July 28, October 28, and January 28). Monthly test results shall be reported along with the DMR submitted for that month. The format for the report shall be consistent with the latest revision of the "Region VIII Guidance for Acute Whole Effluent Reporting" (Appendix C of Region VIII NPDES Whole Effluent Toxics Control Program, August 1997), and shall include all chemical and physical data as specified.

If the results for four consecutive quarters of testing indicate no acute toxicity, the permittee may request the permit issuing authority to allow a reduction to quarterly acute toxicity testing on only one species on an alternating basis. The permit issuing authority may approve or deny the request based on the results and other available information without an additional public notice. If the request is approved, the test procedures are to be the same as specified above for the test species. If approval is given, the modification will take place without a public notice.

1.3.12 Toxicity Identification Evaluation (TIE)/Toxicity Reduction Evaluation (TRE)

Should acute toxicity and/or chronic toxicity be detected in two (2) consecutive tests of the permittee’s discharge, a TIE-TRE shall be undertaken by the permittee to establish the cause of the toxicity, locate the source(s) of the toxicity, and develop control of or treatment of the toxicity. Failure to initiate, or conduct an adequate TIE-TRE, or delays in the conduct of such tests, shall not be considered a justification for non-compliance with the whole effluent toxicity limitations contained in Part 1.3.3 and 1.3.6 of this permit. A TRE plan needs to be submitted to the permitting authority within 45 days after confirmation of the continuance of the effluent toxicity.

1.4 Stormwater Requirements

1.4.1 Storm Water Pollution Prevention Plans

The permittee shall continue to implement all existing best management practices (BMP) that may affect the quality of storm water runoff unless those BMPs are modified or replaced by the storm water pollution prevention plan required below. The permittee shall develop a storm water pollution prevention plan for the MHA Nation Clean Fuels Refinery site. The storm water pollution prevention plan shall be prepared in accordance with good engineering practices and in accordance with the factors outlined in 40 CFR 125.3(d)(2) or (3) as appropriate. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. The facility must implement the provisions of the storm water pollution prevention plan required under this Part as a condition of this permit.

1.4.1.1 Deadlines for Plan Preparation and Compliance.

The plan for a storm water discharge:

1.4.1.2 Shall be prepared and submitted to the permit issuing authority for review and approval no later than six months after the effective date of this permit (and updated at a minimum of every two years or more frequently if deemed appropriate). The plan shall be submitted to the U.S. EPA Region 8 Stormwater Program at the following address:

Greg Davis
EPA Region 8 Stormwater Program Coordinator
Mailcode: 8P-W-P
999 18th Street, Suite 200
Denver, CO 80202-2466

A copy of the plan shall also be submitted to the Three Affiliated Tribes Environmental Department at the following address:

Environmental Division
Three Affiliated Tribes
204 West Main
New Town, ND 58763

1.4.1.3 Shall provide for implementation and compliance with the terms of the plan on or before six months after the plan is approved by the U.S. EPA Region 8 Stormwater Program.

1.4.1.5 Upon a showing of good cause, the permit issuing authority may establish a later date in writing for preparation, implementation, and compliance with the plan.

1.4.1.6 Except as provided in Part 1.4.1.3 above, the plan shall be implemented in accordance with the approval of the permit issuing authority no later than one year after the effective date of this permit unless the permit issuing authority approves a later date.

1.4.1.7 The permit issuing authority may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this Part. Within 30 days of such notification from the permit issuing authority, (or as otherwise provided by the permit issuing authority), the permittee shall make the required changes to the plan and shall submit to the permit issuing authority a written certification that the requested changes have been made.

1.4.1.8 Keeping Plans Current - The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part 1.4.1.9.2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Amendments to the plan shall be submitted for review to the permit issuing authority in the same manner as Part 1.4.1.2(above).

1.4.1.9 Contents of Plan - The plan shall include, at a minimum, the following:

1.4.1.9.1 Pollution Prevention Team - The plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

1.4.1.9.2 Description of Potential Pollutant Sources - The plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. The plan shall include, at a minimum:

1.4.1.9.3 Inventory of Exposed Materials - An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the issuance of this permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the issuance of this permit and the present; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives. Note: The limitation of three (3) years prior to the date of the issuance of this permit does not apply to radioactive materials.

1.4.1.9.4 Drainage A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part 1.4.1.9.6 (Spills and Leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas.

1.4.1.9.5 For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

1.4.1.9.6 Spills and Leaks: A list of significant spills and significant leaks of toxic, hazardous or radioactive pollutants that have occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the effective date of this permit. Such list shall be updated as appropriate during the term of the permit. Note: The limitation of three (3) years prior to the date of the issuance of this permit does not apply to radioactive materials:

1.4.1.9.7 Sampling Data: A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

1.4.1.9.8 Risk Identification and Summary of Potential Pollutant Sources: A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., radioactive materials, acids, solvents, etc.) of concern shall be identified.

1.4.1.9.9 Spills and Leaks: The permittee shall develop a description of storm water management controls appropriate for the MHA Nation Clean Fuels Refinery Site, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

1.4.1.9.10 Good Housekeeping: Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

1.4.1.9.11 Preventive Maintenance: A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

1.4.1.9.12 Spill Prevention and Response Procedures: Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

1.4.1.9.13 Inspections: In addition to or as part of the comprehensive site evaluation required under Part 1.4.1.9.18 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals of no less than one time each year as specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

1.4.1.9.14 Employee Training: Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

1.4.1.9.15 Record keeping and Internal Reporting Procedures: A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

1.4.1.9.16 Sediment and Erosion Control: The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

1.4.1.9.17 Management of Runoff: The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide the measures that the permittees determine to be reasonable and appropriate and these measures shall be implemented and maintained. The potential of various sources at the MHA Nation Clean Fuels Refinery Site to contribute pollutants to storm water discharges associated with industrial activity (see Part 1.4.1.9.2 shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

1.4.1.9.18 Comprehensive Site Compliance Evaluation: Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

1.4.1.9.19 Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

1.4.1.9.20 The analytical results from the storm water monitoring required under Parts 1.3.2 and 1.3.7 shall be evaluated with the objective of determining whether or not the storm water discharges from the plant site are causing or contributing to water quality problems in the East Fork of Shell Creek. To the extent that data are available, the evaluation shall include data for the previous 12 months. Earlier data may be included to give an indication of trends. The data should also be evaluated in terms of giving an indication of whether or not the plan is effective in minimizing the discharge of pollutants or whether additional control measures are needed.

1.4.1.9.21 Based on the results of the visual inspection (Part 1.4.1.9.13 above) and the evaluation of the monitoring data (Part 1.4.1.9.20 above), the plan shall be revised as appropriate. The revision shall include, as appropriate, the description of potential pollutant sources identified in the plan and pollution prevention measures and controls identified in the plan. The revision shall be completed within four (4) weeks of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the inspection unless additional time has been approved by the permit issuing authority.

1.4.1.9.22 A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part 1.4.1.9.20 (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least one year after coverage under this permit terminates. The report shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit.

1.4.1.9.23 Consistency with other plans: Storm water pollution prevention plans may reflect requirements for spill prevention control and countermeasure (SPCC) plans developed for the MHA Nation Clean Fuels Refinery under section 311 of the CWA; best management practices plans; or other environmental control plans prepared for the MHA Nation Clean Fuels Refinery. Provided such requirement(s) are incorporated into the storm water pollution prevention plan, or referenced by specific document title, volume, heading, and page number(s). All referenced documents must be available for review and inspection upon request.

1.4.2 Additional requirements for storm water discharges associated with industrial activity from facilities subject to EPCRA Section 313 requirements. In addition to the requirements of Part 1.4.1.9 through 1.4.1.9.22 of this permit and other applicable conditions of this permit, storm water pollution prevention plans for facilities subject to reporting requirements under EPCRA Section 313 for chemicals which are classified as 'Section 313 water priority chemicals' in accordance with the definition in PART I.A of this permit, shall describe and ensure the implementation of practices which are necessary to provide for conformance with the following guidelines:

1.4.2.1 In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided. At a minimum, one of the following preventive systems or its equivalent shall be used:

1.4.2.2 Curbing, culverting, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water run-off to come into contact with significant sources of pollutants; or,

1.4.2.3 Roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water, and wind.

1.4.2.4 In addition to the minimum standards listed under Part 1.4.1.10.1 of this permit, the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines, other effective storm water pollution prevention procedures, and applicable Tribal rules, regulations and guidelines:

1.4.2.5 Liquid storage areas where storm water comes into contact with any equipment, tank, container, or other vessel used for Section 313 water priority chemicals.

1.4.2.5.1 No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

1.4.2.5.2 Liquid storage areas for Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 chemicals. Appropriate measures to minimize discharges of Section 313 chemicals may include secondary containment provided for at least the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation, a comprehensive spill contingency and integrity testing plan, and/or other equivalent measures.

1.4.2.6 Material storage areas for Section 313 water priority chemicals other than liquids. Material storage areas for Section 313 water priority chemicals other than liquids which are subject to runoff, leaching, or wind shall incorporate drainage or other control features which will minimize the discharge of Section 313 water priority chemicals by reducing storm water contact with Section 313 water priority chemicals.

1.4.2.7 Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals. Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 water priority chemicals. Protection such as overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Appropriate measures to minimize discharges of Section 313 chemicals may include: the placement and maintenance of drip pans (including the proper disposal of materials collected in the drip pans) where spillage may occur (such as hose connections, hose reels and filler nozzles) for use when making and breaking hose connections; a comprehensive spill contingency and integrity testing plan; and/or other equivalent measures.

1.4.2.8 Areas where Section 313 water priority chemicals are transferred, processed or otherwise handled. Processing equipment and materials handling equipment shall be operated so as to minimize discharges of Section 313 water priority chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall minimize storm water contact with section 313 water priority chemicals. Additional protection such as covers or guards to prevent exposure to wind, spraying or releases from pressure relief vents from causing a discharge of Section 313 water priority chemicals to the drainage system shall be provided as appropriate. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

1.4.2.9 Discharges from areas covered by paragraphs 1.4.1.10.2.1 through 1.4.1.10.2.6

1.4.2.9.1 Drainage from areas covered by paragraphs 1.4.1.10.2.1 through 1.4.1.10.2.6 of this Part should be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Where containment units are employed, such units may be emptied by pumps or ejectors; however, these shall be manually activated.

1.4.2.9.2 Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas should, as far as is practical, be of manual, open-and-closed design.

1.4.2.9.3 If facility drainage is not engineered as above, the final discharge of all in-facility storm sewers shall be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

1.4.2.9.4 Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

1.4.2.9.5 Facility site runoff other than from areas covered by 1.4.1.10.2.1 through 1.4.1.10.2.6. Other areas of the facility (those not addressed in paragraphs 1.4.1.10.2.1 through 1.4.1.10.2.6, from which runoff which may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals could cause a discharge shall incorporate the necessary drainage or other control features to prevent discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

1.4.2.9.6 Preventive maintenance and housekeeping. All areas of the facility shall be inspected at specific intervals identified in the plan for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, facility piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures which could cause a discharge. Inspection shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered which may result in significant releases of Section 313 water priority chemicals to waters of the United States, action to stop the leak or otherwise prevent the significant release of Section 313 water priority chemicals to waters of the United States shall be immediately taken or the unit or process shut down until such action can be taken.

1.4.2.9.7 When a leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal, Tribal, and local requirements and as described in the plan.

1.4.2.9.8 Facility security. Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

1.4.2.9.9 Training. Facility employees and contractor personnel that work in areas where Section 313 water priority chemicals are use or stored shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year, in matters of pollution control laws and regulations, and in the storm water pollution prevention plan and the particular features of the facility and its operation which are designed to minimize discharges of Section 313 water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur. Contractor or temporary personnel shall be informed of facility operation and design features in order to prevent discharges or spills from occurring.

1.4.2.9.10 Engineering Certification. - The storm water pollution prevention plan for a facility subject to EPCRA Section 313 requirements for chemicals which are classified as 'Section 313 water priority chemicals' shall be reviewed by a Registered Professional Engineer and certified to by such Professional Engineer. A Registered Professional Engineer shall recertify the plan every 3 years thereafter or as soon as practicable after significant modification are made to the facility. By means of these certifications the engineer, having examined the facility and being familiar with the provisions of this Part, shall attest that the storm water pollution prevention plan has been prepared in accordance with good engineering practices. Such certifications shall in no way relieve the owner or operator of a facility covered by the plan of their duty to prepare and fully implement such plan.

1.4.3 Additional Requirements for Salt Storage.

1.4.3.1 Storage piles of salt used for deicing or other commercial or industrial purposes and which generate a storm water discharge associated with industrial activity which is discharged to a water of the United States shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile.

1.4.3.2 Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than two years after the effective date of this permit. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to waters of the United States.

2. MONITORING, RECORDING AND REPORTING REQUIREMENTS

2.1. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part 1. shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.

2.2. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the permit.

2.3. Penalties for Tampering. The Act provides that any person who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both. Second conviction is punishable by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or both.

2.4. Reporting of Monitoring Results. Effluent monitoring results obtained during the previous **month** shall be summarized and reported on **one** Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region 8's Guidance For Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 4.), and submitted to the Planning and Targeting Program, and the TAT Environmental Department at the following addresses:

original to: U.S. EPA, REGION 8
PLANNING AND TARGETING PROGRAM (8ENF-PT)
ATTENTION: PCS COORDINATOR
999 18TH STREET, SUITE 300
DENVER, COLORADO 80202-2466

copy to: Environmental Division
Three Affiliated Tribes
204 West Main
New Town, ND 58763

2.5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136, 40 CFR 503, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

2.6. Records Contents. Records of monitoring information shall include:

2.6.1. The date, exact place, and time of sampling or measurements;
2.6.2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
2.6.3. The date(s) analyses were performed;
2.6.4. The time(s) analyses were initiated;
2.6.5. The initials or name(s) of individual(s) who performed the analyses;
2.6.6. References and written procedures, when available, for the analytical techniques or methods used; and,
2.6.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

2.7. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on site.

2.8. Twenty-four Hour Notice of Noncompliance Reporting.

2.8.1. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Preparedness, Assessment and Response Program at (303) 293-1788, and the TAT Environmental Division at (701) 627-5469.

2.8.2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8, Technical Enforcement Program at (303) 312-6720 (8:00 a.m. - 4:30 p.m. Mountain Time) or the appropriate EPA State Program Manager, NPDES Program, (toll-free 866-457-2690) (8:00 a.m. - 4:30 p.m. Mountain Time) and the TAT Environmental Division at (701) 627-5469 (8:00 a.m. - 4:30 p.m. Central Time) by the first workday following the day the permittee became aware of the circumstances:

2.8.2.1. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part 3.7., Bypass of Treatment Facilities.);

2.8.2.2. Any upset which exceeds any effluent limitation in the permit (See Part 3.8., Upset Conditions.); or,

2.8.2.3. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.

2.8.3. A written submission shall also be provided to the USEPA, Office of Enforcement, Compliance and Environmental Justice, and to the TAT Environmental Division within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:

2.8.3.1. A description of the noncompliance and its cause;

2.8.3.2. The period of noncompliance, including exact dates and times;

2.8.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,

2.8.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2.8.4. The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Part 2.8.2. above, if the incident has been orally reported in accordance with the requirements of Part 2.8.2.

2.8.5. Reports shall be submitted to the addresses in Part 2.4., Reporting of Monitoring Results.

2.9. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part 2.4. are submitted. The reports shall contain the information listed in Part 2.8.3.

2.10. Inspection and Entry. The permittee shall allow the Regional Administrator, or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:

2.10.1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

2.10.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

2.10.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

3. COMPLIANCE RESPONSIBILITIES

3.1. Duty to Comply. The permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.

3.2. Penalties for Violations of Permit Conditions. The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the civil monetary penalties for inflation on a periodic basis. EPA previously adjusted its civil monetary penalties on December 31, 1996 (61 Fed. Reg. 69359-69365), with technical corrections and additions published on March 20, 1997 (62 Fed. Reg. 13514-13517) and June 27, 1997 (62 Fed. Reg. 35037-35041). On February 13, 2004 (69 Fed. Reg. 7121-7127) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of March 15, 2004, for violations of the Act (including permit conditions) are given below:

3.2.1. Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed $32,500 per day for each violation.

3.2.2. Any person who ***negligently*** violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment for not more than 2 years, or both.

3.2.3. Any person who ***knowingly*** violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment for not more than 6 years, or both.

3.2.4. Any person who ***knowingly*** violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

3.2.5. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed $11,000 per violation, with a maximum amount not to exceed $32,500. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed $11,000 per day for each day during which the violation continues, with the maximum amount not to exceed $157,500.

3.3. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

3.5. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and

maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

3.5.1 The permittee shall, as soon as reasonable and practicable, but no later than six (6) months after the effective date of this permit, do the following as part of the operation and maintenance program for the wastewater treatment facility:

3.5.1.1. Have a current O & M Manual(s) that describes the proper operational procedures and maintenance requirements of the wastewater treatment facility;

3.5.1.2. Have the O & M Manual(s) readily available to the operator of the wastewater treatment facility and require that the operator become familiar with the manual(s) and any updates;

3.5.1.2. Have a schedule(s) for routine operation and maintenance activities at the wastewater treatment facility; and,

3.5.1.3. Require the operator to perform the routine operation and maintenance requirements in accordance with the schedule(s).

3.5.1.4. Deadlines for O&M Manual(s) Preparation.

The O&M Manual(s)

3.5.1.4.1 Shall be prepared and submitted to the permit issuing authority for review and approval no later than six months after the effective date of this permit (and updated at a minimum of every two years or more frequently if deemed appropriate). The plan shall be submitted to the U.S. EPA Region 8 NPDES Permits Unit at the following address:

EPA Region 8 NPDES Permits Unit
Mailcode: 8P-W-P
999 18th Street, Suite 300
Denver, CO 80202-2466

A copy of the plan shall also be submitted to the Three Affiliated Tribes Environmental Department at the following address:

Environmental Division
Three Affiliated Tribes
204 West Main
New Town, ND 58763

3.5.2. The permittee shall maintain a daily log in a **bound notebook(s)** containing a summary record of all operation and maintenance activities at the wastewater treatment facility. At a minimum, the notebook shall include the following information:

3.5.2.1. Date and time;
3.5.2.2 Name and title of person(s) making the log entry;
3.5.2.3. Name of the persons(s) performing the activity;
3.5.2.4. A brief description of the activity; and,
3.5.2.5. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the TAT Environmental Division.

3.6. Removed Substances. Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (i.e., 40 CFR 257, 40 CFR 258, 40 CFR 503, 40 CFR 268 and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard. **In addition, the use and/or disposal of sewage sludge shall be done under the authorization of an NPDES permit issued for the use and/or disposal of sewage sludge by the appropriate NPDES permitting authority for sewage sludge.** Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.

3.7. Bypass of Treatment Facilities.

3.7.1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts 3.7.2. and 3.7.3.

3.7.2. Notice:

3.7.2.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the USEPA, Technical Enforcement Program, and the TAT Environmental Division.

3.7.2.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part 2.8., Twenty-four Hour Noncompliance Reporting, to the USEPA, Technical Enforcement Program, and the TAT Environmental Division.

3.7.3. Prohibition of bypass.

3.7.3.1. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:

3.7.3.1.1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

3.7.3.1.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

3.7.3.1.3. The permittee submitted notices as required under Part 3.7.2.

3.7.3.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 3.7.3.1.

3.8. Upset Conditions

3.8.1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part 3.8.2. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

3.8.2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

3.8.2.1. An upset occurred and that the permittee can identify the cause(s) of the upset;
3.8.2.2. The permitted facility was at the time being properly operated;
3.8.2.3. The permittee submitted notice of the upset as required under Part 2.8., Twenty-four Hour Notice of Noncompliance Reporting; and,
3.8.2.4. The permittee complied with any remedial measures required under Part 3.4., Duty to Mitigate.

3.8.3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

3.9. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307 (a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

3.10. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

3.10.1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

3.10.1.1. One hundred micrograms per liter (100 ug/L);

3.10.1.2. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter 500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

3.10.1.3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,

3.10.1.4. The level established by the Director in accordance with 40 CFR 122.44(f).

3.10.2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

3.10.2.1. Five hundred micrograms per liter (500 ug/L);

3.10.2.2. One milligram per liter (1 mg/L) for antimony:

3.10.2.3. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,

3.10.2.4. The level established by the Director in accordance with 40 CFR 122.44(f).

4. GENERAL REQUIREMENTS

4.1. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

4.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or,

4.1.2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation.

4.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.

4.2. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

4.3. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4.4. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.

4.5. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

4.6. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.

4.7. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.

4.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.

4.7.2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

4.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,

4.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

4.7.3. Changes to authorization. If an authorization under Part 4.7.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 4.7.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4.7.4. Certification. Any person signing a document under this section shall make the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4.8. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

4.9. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

4.10. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

4.11. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, tribal or local laws or regulations.

4.12. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

4.13. Transfers. This permit may be automatically transferred to a new permittee if:

4.13.1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;

4.13.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,

4.13.3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part 4.13.2.

4.14.1. Permittees in Indian Country. EPA is issuing this permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. 1151.

4.14.2. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

4.15.1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.

4.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the TAT Tribes and/or EPA for incorporation in this permit.

4.15.3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.

4.16. Toxicity Limitation-Reopener Provision . This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.